

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

ISHAK, Andrew

Appln. No. 10/000,062



Examiner: Deborah A. Raizen

Art Unit: 2873

Filed: 2 November 2001

For: WATERMAN'S SUNGLASS LENS

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ELECTION / RESPONSE

The Honorable Commissioner
of Patents and Trademarks
Washington, DC 20231

Sir:

Responsive to the First Restriction Requirement dated 29 May 2003, applicant herewith elects Group Ir1 (ophthalmic lens with dielectric mirror), the claims readable thereon being claims 1-23. This election is without traverse.

Responsive to the Second Restriction Requirement, applicant herewith provisionally elects Group Ir1:Ir2 (blue blocking amber tint), the claims readable thereon being claim 1, the part of Markush claim 2 drawn to amber tint, and claims 3, 4, 7 and 9-16. This provisional election is with traverse.

To support a requirement for restriction, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., separate classification, status, or field of search. See MPEP Sections 808.02, 806.05(c). In this case species Ir1:Ir2 and Ir1:Ir2 are classified together within the same field of search. Moreover, while species Ir1:Ir2 and Ir1:Ir2 (blue blocking amber tint versus grey) are mutually exclusive, they are not patentably distinct because they do not have standalone utility. Generic claim 1 recites a multi-layer sandwich lens for sunglasses in which the layers are arranged to provide a balanced light transmission

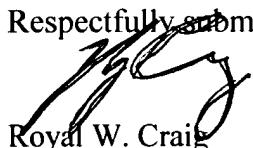
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profile optimum for use on the water in which 100% of UV-A & B light is absorbed to at least 400nm. The choice of tint is important toward accomplishing the light transmission profile, and yet either blue blocking amber tint or grey tint will accomplish this. The concept of color filtration using both amber and grey tint is known and has no standalone novelty, and yet both species take on patentable distinctiveness in combination with the multi-layer sandwich lens of the generic claim. For both of the foregoing reasons the Second Restriction Requirement is believed to be improper and applicant's election is with traverse.

It is believed that this application is now in the proper condition, and a Notice of Allowance is respectfully requested.

Respectfully submitted,


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Date June 19, 2003

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